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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 15, 2020, the United States Court of International Trade (the Court) sustained the second remand redetermination pertaining to the 2014-2015 antidumping duty (AD) administrative review of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China). The Department of Commerce (Commerce) is notifying the public that the final judgment in this litigation is not in harmony with Commerce's final results in the 2014-2015 AD administrative review of solar cells from China, and therefore, Commerce is amending those final results, as explained below.

DATES: Applicable June 25, 2020.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance – International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-2769.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 2017, Commerce published its *Final Results* of the 2014-2015 AD administrative review of solar cells from China.¹ On April 16, 2019, the Court directed Commerce to reconsider or further explain its surrogate value selections for Canadian Solar International Limited (Canadian Solar)² and Changzhou Trina Solar Energy Co., Ltd.'s (Trina)³ module glass, its application of an adverse inference, in part, in calculating Canadian Solar's dumping margin, and its decision not to grant Ningbo Qixin Solar Electrical Appliance Co., Ltd. (Qixin) a separate rate.⁴

In the *First Remand Redetermination*, Commerce continued to calculate Canadian Solar's dumping margin using partial adverse facts available (AFA) in valuing factors of production (FOP) for which consumption quantities were not provided by certain unaffiliated suppliers.⁵ With regard to Qixin, Commerce continued to find that Qixin is not eligible for a separate rate.⁶ Commerce also determined, under respectful protest, to value Canadian Solar and Trina's

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014-2015*, 82 FR 29033 (June 27, 2017), and accompanying Issues and Decision Memorandum (*Final Results*).

² In this review Commerce treated the following six companies as a single entity: Canadian Solar International Limited; Canadian Solar Manufacturing (Changshu), Inc.; Canadian Solar Manufacturing (Luoyang), Inc.; CSI Cells Co., Ltd.; CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd.; and CSI Solar Power (China) Inc. See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014-2015*, 81 FR 93888 (December 22, 2016) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM) at 6-7, unchanged in *Final Results*.

³ In this review Commerce treated the following six companies as a single entity: Changzhou Trina Solar Energy Co., Ltd.; Trina Solar (Changzhou) Science & Technology Co., Ltd.; Yancheng Trina Solar Energy Technology Co., Ltd.; Changzhou Trina Solar Yabang Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; and Hubei Trina Solar Energy Co., Ltd. See *Preliminary Results* PDM at 6-7, unchanged in *Final Results*.

⁴ See *Canadian Solar International Limited, et al. v. United States*, 378 F. Supp. 3d 1292 (CIT 2019).

⁵ *Results of Remand Redetermination, Canadian Solar International Limited, et al. v. United States*, Court No. 17-00173, Slip. Op. 19-47 (CIT April 16, 2019) (July 15, 2019) (*First Remand Redetermination*).

⁶ *Id.*

module glass using the Bulgarian Harmonized Tariff Schedule (HTS) subheading 7007.19.80, instead of the Thailand HTS subheading 7007.19.90.⁷

On December 3, 2019, the Court sustained Commerce's selection of Bulgarian import data to value module glass, and its decision not to grant Qixin a separate rate; however, the Court remanded for further explanation or reconsideration Commerce's application of partial AFA in calculating Canadian Solar's dumping margin.⁸

In the *Second Remand Redetermination*, pursuant to the Court's holding in *Canadian Solar II*, Commerce determined, under respectful protest, to base Canadian Solar's unreported FOP consumption on partial facts available rather than partial AFA.⁹ Specifically, Commerce based the unreported consumption on the average of the consumption that was reported for certain of Canadian Solar's FOPs.¹⁰ Commerce assigned the margin calculated for Canadian Solar to those respondents eligible for a separate rate and which participated in the litigation.¹¹ On June 15, 2020, the Court sustained the *Second Remand Redetermination*.¹²

Timken Notice

In its decision in *Timken*,¹³ as clarified by *Diamond Sawblades*,¹⁴ the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision

⁷ See *First Remand Redetermination*.

⁸ See *Canadian Solar International Limited, et al. v. United States*, 415 F. Supp. 3d 1326 (CIT 2019) (*Canadian Solar II*).

⁹ See *Final Results of Second Redetermination Pursuant to Court Order, Canadian Solar International Limited, et al. v. United States*, Court No. 17-00173, Slip. Op. 19-47 (CIT December 3, 2019) (February 10, 2020).

¹⁰ *Id.*

¹¹ *Id.*

¹² See *Canadian Solar International Limited, et al. v. United States*, Consol. Court No. 17-00173, Slip Op. 20-83.

¹³ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990).

¹⁴ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010).

that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s June 15, 2020, final judgment sustaining Commerce’s Second Remand Redetermination constitutes a final decision of the Court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results*.

The amended weighted-average dumping margin for the respondents is below:

Exporter	Weighted-Average Dumping Margin (percent)
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang) Inc./CSI Cells Co., Ltd./CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc	3.19
Changzhou Trina Solar Energy Co., Ltd./ Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd.	0.00
Chint Solar (Zhejiang) Co., Ltd.	3.19
ERA Solar Co., Ltd.	3.19
ET Solar Energy Limited	3.19
Hangzhou Sunny Energy Science and Technology Co., Ltd.	3.19
Hengdian Group DMEGC Magnetics Co. Ltd.	3.19
JA Solar Technology Yangzhou Co., Ltd.	3.19
Jiawei Solarchina (Shenzhen) Co., Ltd.	3.19
Jiawei Solarchina Co. Ltd.	3.19
JingAo Solar Co., Ltd.	3.19
Lightway Green New Energy Co., Ltd.	3.19
Ningbo ETDZ Holdings, Ltd.	3.19

Risen Energy Co., Ltd.	3.19
Shanghai BYD Co., Ltd.	3.19
Shanghai JA Solar Technology Co., Ltd.	3.19
Shenzhen Sungold Solar Co., Ltd.	3.19
Shenzhen Topray Solar Co., Ltd.	3.19
Star Power International Limited	3.19
Systemes Versilis, Inc.	3.19
Taizhou BD Trade Co., Ltd.	3.19
tenKsolar (Shanghai) Co., Ltd.	3.19
Toenergy Technology Hangzhou Co., Ltd.	3.19
Wuxi Tianran Photovoltaic Co., Ltd.	3.19
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd.	3.19
Zhejiang ERA Solar Technology Co., Ltd.	3.19
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	3.19

Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by the respondents using assessment rates based on these amended final results of review.

Cash Deposit Requirements

Because the cash deposit rate for all of the respondents listed above, with the exception of Jiawei Solarchina Co. Ltd., Ningbo ETDZ Holdings, Ltd., Star Power International Limited, and

Toenergy Technology Hangzhou Co., Ltd., have been superseded by cash deposit rates calculated in intervening administrative reviews of the AD order on solar cells from China, we will not alter the cash deposit rate currently in effect for these respondents based on these amended final results. Effective June 25, 2020, the cash deposit rate applicable to entries of subject merchandise exported by Jiawei Solarchina Co. Ltd., Ningbo ETDZ Holdings, Ltd., Star Power International Limited, and Toenergy Technology Hangzhou Co., Ltd. is 3.19 percent.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: June 25, 2020.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

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